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9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 **In re:**

13 **PG&E CORPORATION,**

14 **- and -**

15 **PACIFIC GAS AND ELECTRIC**
16 **COMPANY,**

17 **Debtors.**

- 18 ☐ Affects PG&E Corporation
19 ☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

20 ** All papers shall be filed in the Lead Case, No.*
21 *19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

REORGANIZED DEBTORS' NINTH
OMNIBUS OBJECTION TO CLAIMS
(NO LIABILITY CLAIMS)

Response Deadline:
September 29, 2020, 4:00 p.m. (PT)

Hearing Information If Timely Response Made:

Date: October 13, 2020

Time: 10:00 a.m. (Pacific Time)

Place: (Telephonic Appearances Only)

United States Bankruptcy Court

Courtroom 17, 16th Floor

San Francisco, CA 94102

1 **TO: (A) THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY**
2 **JUDGE; (B) THE OFFICE OF THE UNITED STATES TRUSTEE; (C) THE AFFECTED**
3 **CLAIMANTS; AND (D) OTHER PARTIES ENTITLED TO NOTICE:**

4 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as
5 debtors and reorganized debtors (collectively, “**PG&E**” or the “**Debtors**” or as reorganized pursuant to
6 the Plan (as defined below), the “**Reorganized Debtors**”) in the above-captioned chapter 11 cases (the
7 “**Chapter 11 Cases**”) hereby submit this ninth omnibus objection (the “**Objection**”) to the Proofs of
8 Claim (as defined below) identified in the column headed “Claims To Be Disallowed and Expunged” on
9 **Exhibit 1** annexed hereto.

10 **I. JURISDICTION**

11 This Court has jurisdiction over this Objection under 28 U.S.C. §§ 157 and 1334. This matter is
12 a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28
13 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested are section 502 of Title 11 of
14 the United States Code (the “**Bankruptcy Code**”) and Rule 3007 of the Federal Rules of Bankruptcy
15 Procedure (collectively, the “**Bankruptcy Rules**”).

16 **II. BACKGROUND**

17 On January 29, 2019 (the “**Petition Date**”), the Debtors commenced with the Court voluntary
18 cases under chapter 11 of the Bankruptcy Code. Prior to the Effective Date (as defined below), the
19 Debtors continued to operate their businesses and manage their properties as debtors in possession
20 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner was appointed
21 in either of the Chapter 11 Cases. The Debtors’ Chapter 11 Cases are being jointly administered for
22 procedural purposes only pursuant to Bankruptcy Rule 1015(b).

23 On February 12, 2019, the United States Trustee (the “**U.S. Trustee**”) appointed an Official
24 Committee of Unsecured Creditors (the “**Creditors Committee**”). On February 15, 2019, the U.S.
25 Trustee appointed an Official Committee of Tort Claimants (the “**Tort Claimants Committee**” and,
26 together with the Creditors Committee, the “**Committees**”).

27 Additional information regarding the circumstances leading to the commencement of the Chapter
28 11 Cases and information regarding the Debtors’ businesses and capital structure is set forth in the

1 *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief* [Docket
2 No. 263].

3 On July 1, 2019, the Court entered the *Order Pursuant to 11 U.S.C. §§ 502(b)(9) and 105(a),*
4 *Fed. R. Bankr. P. 2002, 3003(c)(3), 5005, and 9007, and L.B.R. 3003-1 (I) Establishing Deadline for*
5 *Filing Proofs of Claim, (II) Establishing the Form and Manner of Notice Thereof, and (III) Approving*
6 *Procedures for Providing Notice of Bar Date and Other Information to All Creditors and Potential*
7 *Creditors* [Docket No. 2806] (the “**Bar Date Order**”). The Bar Date Order set the deadline to file all
8 proofs of claim (each, a “**Proof of Claim**”) in respect of any prepetition claim (as defined in section
9 101(5) of the Bankruptcy Code), including all claims of Fire Claimants (as defined therein), Wildfire
10 Subrogation Claimants (as defined therein), Governmental Units (as defined in section 101(27) of the
11 Bankruptcy Code), and Customers, and for the avoidance of doubt, including all secured claims and
12 priority claims, against either of the Debtors as October 21, 2019 at 5:00 p.m. Pacific Time (the “**Bar**
13 **Date**”). The Bar Date later was extended solely with respect to unfiled, non-governmental Fire
14 Claimants to December 31, 2019 [Docket No. 4672]¹; and subsequently with respect to certain claimants
15 that purchased or acquired the Debtors’ publicly held debt and equity securities and may have claims
16 against the Debtors for rescission or damages to April 16, 2020 [Docket No. 5943].

17 By Order dated June 20, 2020 [Dkt. No. 8053], the Bankruptcy Court confirmed the *Debtors’*
18 *and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated June 19, 2020* (as may be
19 further modified, amended or supplemented from time to time, and together with any exhibits or
20 scheduled thereto, the “**Plan**”). The Effective Date of the Plan occurred on July 1, 2020 (the “**Effective**
21 **Date**”). See Dkt. No. 8252.

22 **III. RELIEF REQUESTED**

23 The Reorganized Debtors file this Objection pursuant to section 502 of the Bankruptcy Code,
24 Bankruptcy Rule 3007(d)(5), Bankruptcy Local Rule 3007-1, and the *Order Approving (A) Procedures*
25 *for Filing Omnibus Objections to Claims and (B) the Form and Manner of the Notice of Omnibus*
26 *Objections*, dated June 30, 2020 [Docket No. 8228] (the “**Omnibus Objections Procedures Order**”)

27
28 ¹ The claims of Fire Claimants will be administered through the Fire Victim Trust and the claims of
Wildfire Subrogation Claimants through the Subrogation Wildfire Trust in accordance with the Plan.

1 seeking entry of an order disallowing Proofs of Claim for which the Reorganized Debtors are not liable
2 (the “**No Liability Claims**”). The No Liability Claims are identified on Exhibit 1, in the columns headed
3 “Claims To Be Disallowed and Expunged.” Exhibit 1 also specifically identifies in the “Basis for
4 Objection” that the No Liability Claims are classified as one of the following:

5 (1) “Equity Interest Claims,” which means that they were based purely upon the Claimant’s
6 holding of the Debtors’ common stock, which interests remain outstanding subject to dilution in
7 accordance with the Plan, and are not otherwise entitled to a distribution or right to payment under the
8 Plan.

9 (2) “Protective Claims,” which means that they assert protective, unliquidated claims arising
10 post-petition pursuant to an assumed executory agreement.² The Reorganized Debtors have no current
11 liability for these kind of contingent future claims because (a) the Claimants retain all non-bankruptcy
12 remedies that would have existed had these Chapter 11 Cases not been filed and (b) the Debtors commit
13 that they will not raise any bankruptcy defenses to future assertion of claims based on the alleged post-
14 assumption failure of the Reorganized Debtors to perform or honor their obligations under such
15 agreements.

16 **IV. ARGUMENT**

17 **A. The No Liability Claims Should be Disallowed**

18 The Omnibus Objections Procedures Order supplemented Bankruptcy Rule 3007(d) to permit
19 the Reorganized Debtors to file objections to more than one claim if “[t]he claims seek recovery of
20 amounts for which the Debtors are not liable.” Omnibus Objections Procedures Order, ¶2(C)(iii).
21 Bankruptcy Rule 3007(e) requires that an omnibus objection must list the claimants alphabetically and
22 by cross-reference to claim numbers. The Reorganized Debtors and their professionals have reviewed
23 each of the No Liability Claims identified on Exhibit 1 and have determined that they do not state a
24 basis for a current right to payment, either because they are based solely on the ownership of the Debtors’
25 stock or because they are purely protective and based upon potential future breach by the Reorganized
26 Debtors. As to the former, ownership of does not in and of itself provide a holder with a “right to

27 ² Section 8.1(a) of the Plan, which deemed all executory contracts and unexpired leases of the
28 Reorganized Debtors assumed as of, and subject to, the occurrence of the Effective Date and the
payment of any applicable Cure Amount (as defined therein).

1 payment” and as such does not constitute a “claim” under the Bankruptcy Code. 11 U.S.C. § 101(5);
2 *see also In re Hedged Investments Associates*, 84 F.3d 1267, 1272 (10th Cir. 1996) (an equity interest is
3 not a claim against the debtor”); *In re Pine Lake Vill. Apartment Co.*, 21 B.R. 478, 480 (Bankr. S.D.N.Y.
4 1982) (an equity interest is not a claim against the debtor and the equity holder is only entitled to a proof
5 of interest). As to the latter, the very fact of contract assumption forming the basis of the Protective
6 Claims indicates no current right to payment: the plain language of the Bankruptcy Code provides that
7 a contract may not be assumed until prepetition defaults under it are cured. 11 U.S.C. § 365(b)(1)(A).
8 And, as discussed above, each Claimant retains its non-bankruptcy remedies with respect to post-petition
9 claims.

10 Each of the Claimants is listed alphabetically, and the claim number and amount are identified
11 in accordance with Bankruptcy Rule 3007(e). Furthermore, in accordance with the Omnibus Objections
12 Procedures Order, the Reorganized Debtors have sent individualized notices to the holders of each of
13 the No Liability Claims.

14 **B. The Claimants Bear the Burden of Proof**

15 A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C.
16 § 502(a).³ Section 502(b)(1) of the Bankruptcy Code, however, provides in relevant part that a claim
17 may not be allowed if “such claim is unenforceable against the debtor and property of the debtor, under
18 any agreement or applicable law.” 11 U.S.C. § 502(b)(1). Once the objector raises “facts tending to
19 defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves,”
20 *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991), quoting 3 L. King, *Collier on*
21 *Bankruptcy* § 502.02 at 502-22 (15th ed. 1991), then “the burden reverts to the claimant to prove the
22 validity of the claim by a preponderance of the evidence,” *Ashford v. Consolidated Pioneer Mortgage*
23 *(In re Consolidated Pioneer Mortgage)* 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995) (quoting *In re*
24 *Allegheny Int’l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)), *aff’d without opinion* 91 F.3d 151 (9th Cir.
25 1996). “[T]he ultimate burden of persuasion is always on the claimant.” *Holm*, 931 F.2d at 623 (quoting
26 King, *Collier on Bankruptcy*); *see also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039

27
28 ³ Under Section 7.1 of the Plan, the Reorganized Debtors have until 180 days after the Plan’s Effective Date to bring objections to claims, which deadline may be extended by the Court.

1 (9th Cir. 2000), *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (BAP 9th Cir. 1993); *In re Fidelity*
2 *Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988).

3 As set forth above, the Reorganized Debtors submit that the No Liability Claims do not represent
4 a current right to payment and therefore should be disallowed in their entirety. If any Claimant believes
5 that a No Liability Claim is valid, it must present affirmative evidence demonstrating the validity of that
6 claim.

7 **V. RESERVATION OF RIGHTS**

8 The Reorganized Debtors hereby reserve the right to object, as applicable, in the future to any of
9 the Proofs of Claim listed in this Objection on any ground, and to amend, modify, or supplement this
10 Objection to the extent an objection to a claim is not granted, and to file other objections to any proofs
11 of claims filed in these cases, including, without limitation, objections as to the amounts asserted therein,
12 or any other claims (filed or not) against the Debtors, regardless of whether such claims are subject to
13 this Objection. A separate notice and hearing will be scheduled for any such objections. Should the
14 grounds of objection specified herein be overruled or withdrawn, wholly or in part, the Reorganized
15 Debtors reserve the right to object to the No Liability Claims on any other grounds that the Reorganized
16 Debtors may discover or deem appropriate.

17 **VI. NOTICE**

18 Notice of this Objection will be provided to (i) holders of the No Liability Claims; (ii) the Office
19 of the U.S. Trustee for Region 17 (Attn: Andrew R. Vara, Esq. and Timothy Laffredi, Esq.); (iii) counsel
20 to the Creditors Committee; (iv) counsel to Tort Claimants Committee; (v) all counsel and parties
21 receiving electronic notice through the Court's electronic case filing system; and (vi) those persons who
22 have formally appeared in these Chapter 11 Cases and requested service pursuant to Bankruptcy Rule
23 2002. The Reorganized Debtors respectfully submit that no further notice is required. No previous
24 request for the relief sought herein has been made by the Reorganized Debtors to this or any other Court.

25 WHEREFORE the Reorganized Debtors respectfully request entry of an order granting (i) the
26 relief requested herein as a sound exercise of the Reorganized Debtors' business judgment and in the
27 best interests of their estates, creditors, shareholders, and all other parties interests, and (ii) such other
28 and further relief as the Court may deem just and appropriate.

1 Dated: September 3, 2020

KELLER BENVENUTTI KIM LLP

2 By: /s/ Peter J. Benvenutti
3 Peter J. Benvenutti

4 *Attorneys for Debtors and Reorganized Debtors*